

Amendments to House Bill No. 65
1st Reading Copy

Requested by Representative Dan Villa

For the House Business and Labor Committee

Prepared by Bartley Campbell
January 20, 2007 (10:12am)

1. Title, line 6 through line 7.
Strike: "DESIGNATING" on line 6 through "ACT;" on line 7
2. Title, line 9 through line 11.
Following: "LAWS;"
Strike: "PROVIDING" on line 9 through "PURPOSES;" on line 11
3. Title, line 13.
Following: "FACTOR;"
Insert: "PROVIDING THAT CERTAIN INFORMATION REGARDING SUBSEQUENT INJURY CERTIFICATION IS PART OF THE WORKERS' COMPENSATION DATABASE SYSTEM AND MAY BE RELEASED UNDER SPECIFIED CONDITIONS TO AN INSURER; LIMITING LIABILITY OF INJURED EMPLOYEES TO THIRD-PARTY PROVIDERS AND PROVIDING FOR ACTIONS BY THIRD-PARTY PROVIDERS AGAINST UNINSURED EMPLOYERS FOR SERVICES TO AN EMPLOYEE THAT ARE NOT REIMBURSED BY THE UNINSURED EMPLOYERS' FUND;"
4. Title, line 16.
Strike: "39-71-203,"
Insert: "39-71-225",
Following: "39-71-503,"
Insert: "39-71-508,"
5. Page 2, line 22 through page 3, line 2.
Strike: section 2 in its entirety
Renumber: subsequent sections
6. Page 3, lines 10 through 21.
Strike: section 4 in its entirety
Insert: "Section 3. Section 39-71-225, MCA, is amended to read:
 "39-71-225. Workers' compensation database system. (1) The department shall develop a workers' compensation database system to generate management information about Montana's workers' compensation system. The database system must be used to collect and compile information from insurers, employers, medical providers, claimants, claims examiners, rehabilitation providers, and the legal profession.
 (2) Data collected must be used to provide:
 (a) management information to the legislative and executive

branches for the purpose of making policy and management decisions, including but not limited to:

(i) performance information to enable the state to enact remedial efforts to ensure quality, control abuse, and enhance cost control;

(ii) information on medical, indemnity, and rehabilitation costs, utilization, and trends;

(iii) information on litigation and attorney involvement for the purpose of identifying trends, problem areas, and the costs of legal involvement;

(b) current and prior claim information to any insurer that is at risk on a claim, or that is alleged to be at risk in any administrative or judicial proceeding, to determine claims liability or for fraud investigation. The department may release information only upon written request by the insurer and may disclose only the claimant's name, claimant's identification number, prior claim number, date of injury, body part involved, and name and address of the insurer and claims examiner on each claim filed. Information obtained by an insurer pursuant to this section must remain confidential and may not be disclosed to a third party except to the extent necessary for determining claim liability or for fraud investigation; ~~and.~~

(c) current and prior claim information to law enforcement agencies for purposes of fraud investigation or prosecution; ~~and~~

(d) to any insurer that is at risk on a claim, information identifying whether the claimant has been certified by the department as a person with a disability. Information obtained by an insurer pursuant to this subsection (2)(d) must remain confidential and may not be disclosed to a third party except as necessary to implement the provisions of Title 39, chapter 71, part 9. An insurer may disclose to the employer that the claimant has been certified by the department and of the potential for a limit on the insurer's liability and of potential reimbursement by the subsequent injury fund..

(3) The department is authorized to collect from insurers, employers, medical providers, the legal profession, and others the information necessary to generate the workers' compensation database system.

(4) The workers' compensation database system must be designed in accordance with the following principles:

(a) avoidance of duplication and inconsistency;

(b) reasonable availability of data elements;

(c) value of information collected to be commensurate with the cost of retrieving the collected information;

(d) uniformity to permit efficiency of collection and to allow interstate comparisons;

(e) a workable mechanism to ensure the accuracy of the data collected and to protect the confidentiality of collected data;

(f) reasonable availability of the data at a fair cost to the user;

~~(g) a broad application to plan No. 1, plan No. 2, and plan No. 3 insurers;~~

(h) compatibility with electronic data reporting;

(i) reporting procedures that can be handled through private data collection systems that adhere to the provisions of subsections (4) (a) through (4) (h);

(j) implementation of reporting requirements that allow reasonable lead time for compliance.

(5) The department shall publish an annual report on the information compiled.

(6) Users of information obtained from the workers' compensation database under this section are liable for damages arising from misuse or unlawful dissemination of database information.

(7) An insurer or a third-party administrator who submitted 50 or more "first reports of injury" to the department in the preceding calendar year shall electronically submit the reports and any other reports related to the reported claims in a nationally recognized format specified by department rule.

(8) The department may adopt rules to implement this section."

{ Internal References to 39-71-225: None. }

Renumber: subsequent sections

7. Page 4, line 17.

Following: "necessary for"

Strike: "the administration of the fund and for"

8. Page 4, following line 18.

Insert: "Section 5. Section 39-71-508, MCA, is amended to read:

"39-71-508. Coordination of remedies -- limitation of liability of employee to third-party providers -- rights of third-party providers. (1) An employee who suffers an injury arising out of and in the course of employment while working for an uninsured employer, as defined in 39-71-501, or an employee's beneficiaries in injuries resulting in death may pursue all remedies concurrently, including but not limited to:

(1)(a) a claim for benefits from the uninsured employers' fund;

(2)(b) a damage action against the employer in accordance with 39-71-509;

(3)(c) an independent action against an employer as provided in 39-71-515; or

(4)(d) any other civil remedy provided by law.

(2) An employee who is entitled to recover under this part is not liable to any third-party provider for services provided to the employee that are not reimbursed by the uninsured employers' fund.

(3) A third-party provider that is not fully reimbursed by

~~the uninsured employers' fund for services provided to an injured employee may bring an action directly against the uninsured employer for the amount of services that were not paid by the uninsured employers' fund."~~

{ Internal References to 39-71-508:

39-8-207 x 39-71-501* x 39-71-517* x 39-71-519*x}"

Renumber: subsequent sections

9. Page 7, line 28.

Strike: "(1)"

Strike: "3"

Insert: "2"

10. Page 7, line 29.

Strike: "3"

Insert: "2"

11. Page 7, line 30 through page 8, line 1.

Strike: subsection (2) in its entirety

12. Page 8, line 5.

Strike: "5"

Insert: "4"

- END -